

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SOUTHERNNET, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO PROVIDE LONG DISTANCE)	
TELECOMMUNICATIONS SERVICES, INCLUDING)	CASE NO.
OPERATOR-ASSISTED SERVICES, STATEWIDE)	89-134
AS A WATS RESELLER WITHIN THE COMMON-)	
WEALTH OF KENTUCKY)	

O R D E R

This matter arising upon petition of SouthernNet, Inc. (SouthernNet") filed August 7, 1989 and supplemented August 28, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain information filed with this Commission in response to its Order of July 10, 1989, on the grounds that disclosure of the information sought to be protected will cause SouthernNet substantial competitive injury, and it appearing to this Commission as follows:

SouthernNet has filed an application for a Certificate of Public Convenience and Necessity for authority to operate as a WATS reseller. On July 10, 1989, the Commission ordered SouthernNet to file certain information in response to 27 data requests. SouthernNet, in its original petition, sought protection of its responses to 13 of those requests on the grounds that public disclosure would likely result in competitive injury

to SouthernNet. In its supplemental petition, SouthernNet reduced its request for confidential protection to the information contained in seven of its responses. The information sought to be protected is not known outside SouthernNet and is known only to those SouthernNet employees who have a legitimate business need to know the information in order to perform their job responsibilities.

Item 2 requests SouthernNet to identify the tariff services it intends to resell and whether the services will be obtained from intrastate or interstate tariffs. SouthernNet contends that knowledge of this information will enable SouthernNet's competitors to ascertain SouthernNet's cost of service and determine SouthernNet's gross profit margin and that this information, which was developed by SouthernNet at its expense, would also allow SouthernNet competitors to formulate competitive strategies to SouthernNet's service offerings. This information, however, only furnishes the identity of the long-distance carriers that SouthernNet intends to purchase service from and the types of services it intends to purchase from each. The information does not show how the service it intends to purchase would be put together, without which SouthernNet competitors will not be able to determine the unit cost of service to each customer. Without the unit cost it is not possible to determine SouthernNet's gross revenues and therefore this information would have no substantial value to SouthernNet's competitors.

Item 3 requests copies of any contracts which govern the terms of agreements between SouthernNet and facilities-based

carriers in situations where SouthernNet intends to resell services not available under an approved tariff. SouthernNet contends that the terms of such contracts would reveal details about SouthernNet's networking and cost of services, and this information could be used to derive SouthernNet's margin of profit. SouthernNet, however, in responding to this request did not file copies of the contracts and until such contracts are filed in compliance with the Order, there is no information to be protected.

Item 4 requests SouthernNet to provide a clear and legible sketch of its network showing all switching locations and points-of-presence and also showing how the facilities obtained from the facilities-based carriers will be used to connect these locations. SouthernNet contends that knowledge of this information would enable its competitors to physically disrupt its operations. While SouthernNet does not state how such disruptions might occur, presumably, SouthernNet is referring to potential acts of sabotage. Such concerns, however, are not grounds for confidential protection and the response to Item 4 should be open for public inspection.

Item 5 requests an explanation of how SouthernNet will ensure payment of intrastate access charges if switching locations and points-of-presence are located outside of Kentucky. SouthernNet contends that its response identifies its network for origination and termination of calls which its competitors could use to determine SouthernNet's cost of service and gross profit margin, and to develop competitive offerings. However, the

response is in such broad and general terms that it is applicable to any WATS reseller and the information would have little or no value to SouthernNet's competitors.

Item 14 requests a description of how calls are transported to a final termination point, specifying the facilities and services to terminate calls. SouthernNet contends that this information would also allow SouthernNet's competitors to ascertain networking and cost of service which could be used to develop competitive offerings. Again, this information is furnished in broad and general terms that would be applicable to any common carrier, not only WATS resellers, and would not be of significant value to SouthernNet competitors.

Item 19 requests an explanation of the method SouthernNet uses to transfer calls to other operator service providers when requested by an end-user. SouthernNet contends that this information would reveal certain technical constraints in and the parameters of SouthernNet's system which competitors could use to structure pricing and marketing strategies. The same contention is also made for Item 20 which requests an explanation of SouthernNet's calling card validation capabilities. However, the information furnished in response to Items 19 and 20 is also broad and general and of no substantial competitive value.

807 KAR 5:001, Section 7, protects information as confidential only when it is established that the disclosure will result in competitive injury to the person from whom the information was obtained. Such injury occurs when disclosure of the information provides a competitor with an unfair advantage.

There is no evidence that the responses by SouthernNet to Items 2, 3, 4, 5, 14, 19, and 20 of the July 10, 1989 Order are likely to result in competitive injury to SouthernNet if the information is disclosed. Therefore, the petition should be denied.

This Commission being otherwise sufficiently advised,
IT IS ORDERED that:

1. SouthernNet's petition that information furnished by it in its response to Items 2, 3, 4, 5, 14, 19, and 20 of the July 10, 1989 Order, be withheld from public disclosure, be and is hereby denied.

2. The information shall be held by the Commission for a period of 5 working days from the date of this order. At the expiration of such period, the information shall be placed in the public record.

Done at Frankfort, Kentucky, this 22nd day of November, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:

Executive Director